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(6) It is signed by an official of the coinsuring lender who has been designated and authorized in accordance with HUD requirements.

(Information collection requirements in paragraph (b) were approved by the Office of Management and Budget under control number 2502-0437)

[55 FR 41320, Oct. 10, 1990, as amended at 56 FR 14642, Apr. 11, 1991]

§ 255.2 GNMA right to assignment.

If the lender-issuer defaults on its obligations under the GNMA Mortgage-Backed Securities Program, GNMA will have the right to cause all Coinsured Mortgages held in GNMA pools by the defaulting coinsuring lender-issuer to be assigned to another GNMA-approved coinsuring lender-issuer, or to GNMA itself.

(a) For any Coinsured Mortgage that is not in default and is held by a defaulting lender-issuer, GNMA will have the right to perfect an assignment of the mortgage to itself. However, before exercising this right, GNMA will attempt to have the Mortgage assigned to another eligible coinsuring lender (unless GNMA determines, with the agreement of the Commissioner, that the attempt would prove ineffectual because of market conditions or other factors). This attempt will be undertaken by soliciting offers to assume the defaulting lender-issuer's rights and obligations under the Mortgage from those eligible coinsuring lenders that are also GNMA issuers and that are indicated on a periodically updated listing furnished to GNMA by the Commissioner.

(b) For any Coinsured Mortgage that is in default and held by a defaulting lender-issuer, GNMA will have the right to perfect an assignment of the Coinsured Mortgage directly to itself before extinguishing the Mortgage by completion of foreclosure action or acquisition of title by deed-in-lieu of foreclosure.

(c) GNMA, as assignee, will give the Commissioner written notice, within 30 days after taking a Mortgage by assignment in accordance with this section, in order to allow an appropriate endorsement and necessary changes in the Commissioner's records.

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(d) The Commissioner will endorse any Mortgage assigned to GNMA as provided by this section for full insurance, effective as of the date of assignment in accordance with the appropriate provisions of 24 CFR part 207. Any future claim by GNMA, or any assignment of the fully insured Mortgage, will be governed by the appropriate provisions of 24 CFR part 207, except that any payment will be made in cash instead of debentures.

[59 FR 1475, Jan. 11, 1994]

§ 255.3 Case-by-case conversion to full insurance.

CROSS REFERENCE: The provisions of 24 CFR 251.3 apply to this part.

[61 FR 49038, Sept. 17, 1996]

§ 255.6 Method of payment of mortgage insurance premiums.

The provisions of 24 CFR 251.6 shall apply to this part.

[63 FR 1303, Jan. 8, 1998]

PART 257—HOPE FOR HOMEOWNERS PROGRAM

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AUTHORITY: 12 U.S.C. 1701z-22; 42 U.S.C. 3535(d).

SOURCE: 75 FR 1691, Jan. 12, 2010, unless otherwise noted.

Subpart A—HOPE for Homeowners Program—General Requirements**§ 257.1 Purpose of program.**

The HOPE for Homeowners (H4H) program is a temporary program authorized by section 257 of the National Housing Act, established within the Federal Housing Administration (FHA) of the Department of Housing and Urban Development (HUD) that offers to homeowners and existing loan holders (or servicers acting on their behalf), FHA insurance on refinanced loans for distressed borrowers to support long-term sustainable homeownership by, among other things, allowing homeowners to avoid foreclosure. The H4H program is administered by HUD through FHA. As used in this subpart, the terms HUD and FHA are interchangeable.

§ 257.3 Scope of part.

(a) *Core requirements.* This subpart establishes the core requirements for the H4H program.

(b) *Basic program parameters.* (1) FHA is authorized to insure eligible refinanced mortgages under the H4H program commencing no earlier than October 1, 2008. The authority to insure additional mortgages under the H4H program expires September 30, 2011.

(2) Under the H4H program, an eligible mortgagor may obtain a refinancing of his or her existing mortgage(s) with a new mortgage loan insured by FHA, subject to conditions and restrictions specified in section 257 of the National Housing Act and requirements established by HUD.

(c) *Other applicable requirements.* Except as may be otherwise provided by HUD, the provisions and requirements in the FHA regulations at 24 CFR part 203, which generally are applicable to all FHA-insured single-family mortgage insurance programs, also apply with respect to the insurance of a refinanced eligible mortgage under the H4H program.

§ 257.5 Approval of mortgagees.

(a) *Eligibility.* In order for a mortgage to be eligible for insurance under this part, the mortgagee originating the mortgage loan and seeking mortgage insurance under this part shall have been approved by HUD pursuant to 24 CFR part 202.

(b) *Mortgagee whose loan is to be refinanced.* A mortgagee holding or servicing an eligible mortgage to be refinanced and insured under section 257 of the National Housing Act is not required to be an approved mortgagee as required in paragraph (a) of this section, unless the mortgagee seeks to be the originator of the refinanced mortgage to be insured by FHA.

§ 257.7 Definitions.

As used in this part and in the H4H program, the following definitions apply.

Act means the National Housing Act (12 U.S.C. 1701 *et seq.*).

Allowable closing costs mean charges, fees, and discounts that the mortgagee may collect from the mortgagor as provided at 24 CFR 203.27(a).

Board means the Advisory Board for the HOPE for Homeowners program, which is comprised of the Secretary of HUD, the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System (Federal Reserve Board), and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation or the designees of each such individual.

Contract of insurance means the agreement by which FHA provides mortgage insurance to a mortgagee.

Default and delinquency fees means late charges contained in a mortgage/security instrument for the late or

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nonreceipt of payments from mortgagors after the date upon which payment is due, including charges imposed by the mortgagee for the return of payments on the mortgage due to insufficient funds.

Direct financial benefit means the same as “initial equity” determined under § 257.118(a).

Disposition means any transaction that results in whole or partial transfer of title of a property other than—

- (1) A sale of the property; or
- (2) Any transaction or transfer specified at 12 U.S.C. 1701j–3(d)(1) through (8).

Eligible Mortgage means a mortgage as defined at § 257.104.

Existing senior mortgage means an eligible mortgage that has superior priority and is being refinanced by a mortgage insured under section 257 of the Act.

Existing subordinate mortgage means a mortgage that is subordinate in priority to an eligible mortgage that is being refinanced by a mortgage insured under section 257 of the Act.

FHA means the Federal Housing Administration.

HOPE for Homeowners program (or H4H program) means the program established under section 257 of the Act.

HUD means the Department of Housing and Urban Development.

Intentionally defaulted for purposes of section 257(e)(1)(A) of the Act means the mortgagor:

- (1) Knowingly failed to make payment on the mortgage or debt;
- (2) Had available funds at the time payment on the mortgage or debt was due that could pay the mortgage or debt without undue hardship; and
- (3) The debt was not subject to a bona fide dispute.

Mortgage has the same meaning as provided at 24 CFR 203.17(a)(1).

Mortgagee has the same meaning as provided at 24 CFR 203.251(f).

Mortgagor has the same meaning as provided at 24 CFR 203.251(e).

Net worth means the total dollar amount of all liabilities subtracted from the total dollar amount of all assets (other than retirement accounts) of the mortgagor.

Prepayment penalties mean such amounts as defined at 12 CFR

226.32(d)(6) of the Federal Reserve Board’s Regulation Z (Truth in Lending).

Primary residence means the dwelling where the mortgagor maintains his or her permanent place of abode and typically spends the majority of the calendar year. A mortgagor can have only one primary residence.

Program mortgage means the mortgage into which the existing senior mortgage is refinanced.

Related party of a person means any of the following or another person acting on behalf of the person or any of the following—

- (1) The person’s father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, the spouse of any of the foregoing, and the person’s spouse;

- (2) Any entity of which 25 percent or more of any class of voting securities is owned, controlled, or held in the aggregate by the person or the persons referred to in paragraph (1) of this definition; and

- (3) Any entity of which the person or any person referred to in paragraph (1) of this definition serves as a trustee, general partner, limited partner, managing member, or director.

Secretary means the Secretary of Housing and Urban Development.

Substantial debt means any individual liability of the mortgagor that exceeds \$100,000.

Total monthly mortgage payment means the sum of:

- (1) Principal and interest, as determined on a fully indexed and fully amortized basis; and

- (2) *Escrowed amounts.* (i) The monthly required amount collected by or on behalf of the mortgagee for real estate taxes, premiums for required hazard and mortgage insurance, homeowners’ association dues, ground rent, special assessments, water and sewer charges, and other similar charges required by the note or security instrument; or

- (ii) For mortgages not subject to escrow deposits, 1/12 of the estimated annual costs for items listed in paragraph (2)(i) of this definition.

Subpart B—Eligibility Requirements and Underwriting Procedures

§ 257.102 Cross-reference.

(a) All of the provisions of 24 CFR part 203, subpart A, concerning eligibility requirements of mortgages covering one-to-four family dwellings under section 203 of the National Housing Act (12 U.S.C. 1709) apply to mortgages on one-to-four family dwellings to be insured under section 257 of the National Housing Act (12 U.S.C. 1701z-22), *except the following provisions*: 203.7 Commitment process; 203.10 Informed consumer choice for prospective FHA mortgagors; 203.12 Mortgage insurance on proposed or new subdivisions; 203.14 Builder's warranty; 203.16 Certificate and contract regarding use of dwelling for transient or hotel purposes; 203.17(d) Maturity; 203.18 Maximum mortgage amounts; 203.18a Solar-energy system; 203.18b Increased mortgage amount; 203.18c One-time or upfront MIP excluded from limitations on maximum mortgage amounts; 203.18d Minimum principal loan amount; 203.19 Mortgagor's minimum investment; 203.20 Agreed interest rate; 203.29 Eligible mortgage in Alaska, Guam, Hawaii or the Virgin Islands; 203.32 Mortgage lien; 203.37a Sale of property; 203.42 Rental properties; 203.43 Eligibility of miscellaneous types of mortgages; 203.43a Eligibility of mortgages covering housing in certain neighborhoods; 203.43d Eligibility of mortgages in certain communities; 203.43e Eligibility of mortgages covering houses in federally impacted areas; 203.43g Eligibility of mortgages in certain communities; 203.43h Eligibility of mortgages on Indian land insured pursuant to section 248 of the National Housing Act; 203.43i Eligibility of mortgages on Hawaiian Home Lands insured pursuant to section 247 of the National Housing Act; 203.43j Eligibility of mortgages on Allegany Reservation of Seneca Nation Indians; 203.44 Eligibility of advances; 203.45 Eligibility of graduated payment mortgages; 203.47 Eligibility of growing equity mortgages; 203.49 Eligibility of adjustable rate mortgages; 203.50 Eligibility of rehabilitation loans; 203.51 Applicability; and 203.200–203.209 Insured Ten-Year Protection Plans (Plan).

(b) For the purposes of this subpart, all references at 24 CFR part 203, subpart A, to section 203 of the Act shall be construed to refer to section 257 of the Act. Any references at 24 CFR part 203, subpart A, to the “Mutual Mortgage Insurance Fund” shall be deemed to be to the Home Ownership Preservation Entity Fund.

(c) If there is any conflict in the application of any requirement of 24 CFR part 203, subpart A, to this part, the provisions of this part shall control.

§ 257.104 Eligible mortgages.

A mortgage eligible to be refinanced under section 257 of the Act must:

(a) Have been originated on or before January 1, 2008.

(b) Be secured by a property that is:

(1) Owned and occupied by the mortgagor as his or her primary residence; and

(2) The only residence in which the mortgagor has any present ownership interest, except for property acquired by the mortgagor through inheritance.

(c) Meet such other requirements as HUD may adopt.

§ 257.106 Eligible mortgagors.

A mortgagor shall be eligible to refinance his or her existing mortgages under section 257 of the Act only if:

(a)(1) The mortgagor has, as of the date of application for the H4H program mortgage, a total monthly mortgage payment of more than 31 percent of the mortgagor's monthly gross income; or

(2) If the mortgagor's existing senior mortgage or existing subordinate mortgage, if any, is an adjustable-rate mortgage that by its terms resets after the date of application for the H4H program mortgage, the mortgagor will be likely to have a total monthly mortgage payment (based on mortgages outstanding on the date of application for the H4H program mortgage) of more than 31 percent of the mortgagor's monthly gross income calculated as of the date the mortgagor applies for the H4H program mortgage;

(b) The mortgagor does not have an ownership interest in any other residential property, except for a property that the mortgagor has inherited;

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(c) The mortgagor has not been convicted of fraud under federal or state law during the 10-year period ending upon insurance of the H4H program mortgage;

(d) The mortgagor does not have a net worth, as of the date the mortgagor first applies for the H4H program mortgage, which exceeds \$1 million.

(e) The mortgagor meets such other requirements as HUD may adopt.

§ 257.108 Eligible properties.

(a) A mortgage may be insured under the H4H program only if the property that is to be the security for the mortgage is a one-to-four unit residence.

(b) The following property types are eligible to secure a mortgage insured under the H4H program:

(1) Detached and semi-detached dwellings;

(2) A condominium unit;

(3) A cooperative unit; or

(4) A manufactured home that is permanently affixed to realty and is treated as realty under applicable state law, except state taxation law.

§ 257.110 Underwriting.

A mortgage may be insured under the H4H program only if the following conditions are met:

(a) *Loan-to-value and income thresholds.* The loan-to-value (LTV), payment-to-income, and debt-to-income ratios of the H4H program mortgage do not exceed the thresholds set forth in either paragraph (a)(1) or (a)(2) of this section.

(1) *Program mortgage with LTV ratio of 90 percent or less.* (i) The initial principal balance of the H4H program mortgage (excluding the amount of the up-front premium) as a percentage of the current appraised value of the property does not exceed 90 percent;

(ii) The total monthly mortgage payment of the mortgagor under the H4H program mortgage does not exceed 38 percent of the mortgagor's monthly gross income; and

(iii) The sum of the total monthly mortgage payment under the H4H program mortgage and all monthly recurring expenses of the mortgagor do not exceed 43 percent of the mortgagor's monthly gross income.

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(2) *Program mortgage with LTV of greater than 90 percent.* (i) The initial principal balance of the H4H program mortgage (excluding the amount of the up-front premium) as a percentage of the current appraised value of the property exceeds 90 percent (up to any limit established by HUD through Mortgagee Letter);

(ii) The total monthly mortgage payment of the mortgagor under the H4H program mortgage does not exceed 31 percent of the mortgagor's monthly gross income; and

(iii) The sum of the total monthly mortgage payment under the H4H program mortgage and all monthly recurring expenses of the mortgagor do not exceed 43 percent of the mortgagor's monthly gross income.

(b) *Past credit performance.* The mortgagor must have made at least six full payments on the existing senior mortgage being refinanced under the H4H program.

(c) The H4H program mortgage shall have a maturity of not less than 30 years and not more than 40 years from the date of origination.

(d) *Nonoccupant co-borrowers.* A mortgage loan may be insured by the FHA under the H4H program, even if one of the mortgagors on the loan (*i.e.*, a co-signer) does not reside at the residence securing the loan, provided that the nonresident mortgagor relinquishes all interests in the property that is to be security for the mortgage before an application is submitted for FHA insurance under the H4H program.

(e) *Limit on origination fees.* Mortgagees may charge and collect from mortgagors allowable closing costs.

§ 257.112 Mortgagee verifications.

(a) *Income verification.* The mortgagee shall use FHA's procedures to verify the mortgagor's income.

(b) *Mortgage fraud verification.* The mortgagor shall provide a certification to the mortgagee that the mortgagor has not been convicted under federal or state law for fraud during the 10-year period ending upon the insurance of the H4H program mortgage. This certification may be combined with the certification to FHA required under § 257.116(b)(1)(ii). The mortgagee shall take such action as HUD may specify

in administrative guidance to ensure that the mortgagor is in compliance with the certification.

§ 257.114 Appraisal.

(a) The property shall be appraised by an appraiser on the FHA Appraiser Roster.

(b) An appraisal of a property to be security for an H4H program mortgage shall be conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP), and dated no more than 180 days from the date on which the mortgage transaction is closed, except as otherwise provided by HUD.

(c) The mortgagee must inform the appraiser that copies of the appraisal may be shared with holders and servicers of existing subordinate mortgages.

§ 257.116 Representations and prohibitions.

(a) *Underwriting and appraisal standards.* In order for the H4H program mortgage to be eligible for insurance under the H4H program, the underwriter and the mortgagee must provide certifications, in a format approved by FHA, that the mortgage is in compliance with the underwriting and the appraisal standards set forth in this part, and that it meets all requirements applicable to the H4H program. FHA may require additional certifications by the mortgagee to ensure compliance with such additional standards as FHA deems necessary, given the specific mortgage transaction presented.

(b) *Mortgagor's liability for repayment.*

(1) The mortgagor shall provide a certification to FHA that the mortgagor has not:

(i) Intentionally defaulted on the mortgagor's existing mortgage(s), or any other substantial debt during the 5-year period ending upon insurance of the H4H program mortgage; or

(ii) Knowingly or willfully and with actual knowledge furnished material information known to be false for the purpose of obtaining the H4H program mortgage; and

(iii) Been convicted under federal or state law for fraud during the 10-year period ending upon the insurance of the H4H program mortgage. This certifi-

cation may be combined with the certification to the mortgagee required under § 257.112(b).

(2) The mortgagor shall provide any other certifications that FHA may otherwise require.

(3) A mortgagor obligated under an H4H program mortgage shall agree in writing, on a form prescribed by HUD, to be liable to pay to HUD any Direct Financial Benefit achieved from the reduction of indebtedness on the existing senior and subordinate mortgages that are being refinanced under the H4H program if he or she makes a false statement or other misrepresentation in the certifications and documentation required for H4H program eligibility, including but not limited to the certifications required under paragraphs (b)(1) and (b)(2) of this section.

(c) *Mortgagee in violation of program requirements.* (1) If the mortgagee holds an H4H program mortgage that it originated and/or underwrote, and FHA finds that the mortgagee violated the representations and warranties required under paragraph (a) of this section, FHA is prohibited from paying FHA insurance benefits to that mortgagee.

(2) If the mortgagee no longer holds the H4H program mortgage that it originated and/or underwrote, FHA will pay an insurance claim to the mortgagee presently holding the H4H program mortgage (if all other requirements of the contract for mortgage insurance are met and the present holder did not participate in the violation of H4H program requirements) and shall seek indemnification from the mortgagee that originated the H4H program mortgage.

(d) *FHA insurance.* A mortgage is eligible for insurance if the mortgagee submits a complete case binder within such time period as HUD prescribes. The binder shall include evidence acceptable to HUD that the mortgage is current.

(e) *Mortgagor failure to make first mortgage payment.* FHA shall not pay a mortgage insurance claim to any mortgagee if the first total monthly mortgage payment is not made within 120 days from the date of closing of the mortgage. The mortgagee shall not, directly or indirectly, make all or a part

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of the first total monthly mortgage payment on behalf of the mortgagor. The mortgagee is prohibited from escrowing funds at closing for all or part of the first total monthly mortgage payment.

§ 257.118 Exit fee.

(a) *Initial Equity.* For purposes of section 257(k)(1) of the Act, the initial equity created as a direct result of the origination of an H4H program mortgage on a property, as calculated by the H4H program mortgage lender, shall equal:

(1) The lesser of—

(i) The appraised value of the property that was used at the time of origination of the H4H program mortgage to underwrite the mortgage and to determine compliance with the maximum LTV ratio at origination established by section 257(e)(2)(B) of the Act; or

(ii) The outstanding amount due under all existing senior mortgages, existing subordinate mortgages, and non-mortgage liens on the property; less

(2) The original principal amount of the H4H program mortgage on the property.

(b) *FHA's interest.* Upon the sale or disposition of a property secured by the H4H program mortgage or H4H program mortgage refinancing, FHA is entitled to receive the portion of the initial equity (as defined by paragraph (a) of this section) set forth in section 257(k)(1) of the Act, subject to such standards and policies as HUD may establish.

§ 257.120 Appreciation sharing or upfront payment

(a) *Calculation of appreciation.* For purposes of section 257(k)(2) of the Act, the amount of the appreciation in value of a property securing an H4H program mortgage that occurs between the date the mortgage was insured under section 257 of the Act and the date of any subsequent sale or disposition of the property shall be equal to the following, as such amounts of appreciation may be established to the satisfaction of FHA:

(1) In the case of—

(i) A sale of the property to one or more persons, none of whom is a related party of the mortgagor, the gross

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proceeds from the sale of the property; or

(ii) A disposition of the property or the sale of the property to a related party of the mortgagor, the current appraised value of the property at the time of the disposition or sale; less

(2) The amount of closing costs, as adopted by HUD, incurred by the mortgagor(s) in connection with such sale or disposition, if any; less

(3) The appraised value of the property that was used at the time of origination of the H4H program mortgage to underwrite that mortgage and determine compliance with the maximum LTV ratio at origination established by section 257(e)(2)(B) of the Act.

(b) *HUD's interest in appreciation.* Upon sale or disposition of a property securing an H4H program mortgage, FHA may be entitled to receive the lesser of:

(1) An amount up to 50 percent of the appreciation in value of the property calculated in accordance with paragraph (a) of this section; or

(2) An amount equal to the appraised value of the property that was used at the time the existing senior mortgage was originated.

(c) *Eligibility of subordinate mortgage holders to receive portion of appreciation in value.* The persons or entities that hold, on the date of origination of an H4H program mortgage, an existing subordinate mortgage on the property may be eligible to receive a portion of FHA's interest in the appreciation in value of the property, as determined in accordance with the provisions of this section and such additional standards and policies that HUD may establish, if:

(1) The amount of the unpaid principal and interest on such existing subordinate mortgage, as of the first day of the month in which the mortgagor made application for the H4H program mortgage, is at least \$2,500; and

(2) Each person holding such existing subordinate mortgage agrees, in connection with the origination of the H4H program mortgage, to fully release:

(i) The mortgagor(s) from any indebtedness under the existing subordinate mortgage; and

(ii) The holder's mortgage lien on the property.

(d) *Shared appreciation interest of subordinate mortgage holders*—(1) *In general.* The eligible holder(s) of an existing subordinate mortgage on a property securing an H4H program mortgage may be eligible to receive, subject to paragraph (c)(3) of this section, an interest in FHA's interest in the appreciation in the value of such property, up to the amount set forth in administrative instructions issued by HUD.

(2) *Form.* The interest of an eligible holder of an existing subordinate mortgage under paragraph (d) of this section is evidenced in a shared appreciation certificate or other documentation to be issued by, or on behalf of, HUD.

(3) *Multiple subordinate liens.* If there is more than one eligible existing subordinate mortgage on a property securing an H4H program mortgage, the interests of such eligible existing subordinate mortgages under paragraph (d)(1) of this section shall have priority among each other in the same order of priority that existed among the existing subordinate mortgages on the date of origination of the H4H program mortgage.

(4) *Distribution of appreciation interest to subordinate mortgage holders.* Upon the sale or disposition of a property securing an H4H program mortgage other than sale or disposition related to a default, any proceeds due to H4H as a result of the appreciation in value of the property (as calculated in accordance with paragraph (a) of this section) shall be distributed:

(i) First to the holders of any shared appreciation certificate or other documentation issued by HUD with respect to the property, if any, in accordance with paragraphs (d)(1), (d)(2), and (d)(3) of this section; and

(ii) The remaining amounts, if any, will be retained by FHA.

(e) *FHA election to offer up-front payment in lieu of a share of appreciation.* In lieu of any shared appreciation payment under paragraph (c) of this section, FHA may elect to offer the eligible holder(s) of an existing subordinate mortgage on a property securing an H4H program mortgage, a payment in an aggregate amount as provided by HUD through Mortgagee Letter. Eligible subordinate lien holders would re-

ceive the up-front payment contemporaneously with the origination of the H4H program mortgage.

§ 257.122 Forgiveness or waiver of prepayment penalties and default fees.

The holder or servicer of the existing senior and subordinate mortgages shall either forgive or waive all prepayment penalties and delinquency and default fees.

Subpart C—Rights and Obligations Under the Contract of Insurance

§ 257.201 Cross-reference.

(a) All of the provisions of 24 CFR part 203, subpart B, covering mortgages insured under section 203 of the Act shall apply to mortgages insured under section 257 of the Act, *except the following sections*: 203.256 Insurance of open-end advances; 203.259a Scope; 203.260 Amount of insurance premium; 203.261 Calculation of periodic MIP (periodic MIP); 203.270 Open-end insurance charges; 203.280 One-time of up-front MIP; 203.281 Calculation of one-time MIP; 203.283 Refund of one-time MIP; 203.284 Calculation of up-front and annual MIP on or after July 1, 1991; 203.285 Fifteen year mortgages: calculation of up-front and annual MIP on or after December 26, 1992; 203.415–203.417 Certificate of Claim; 203.420–203.427 Mutual Mortgage Insurance Fund and Distributive Shares; 203.436 Claim procedures—graduated payment mortgages; 203.438 Mortgages on Indian land insured pursuant to section 248 of the National Housing Act; 203.439 Mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act; 203.439a Mortgages on property in Allegheny Reservation of Seneca Nation of Indians authorized by section 203(q) of the National Housing Act; and 203.440–203.495 Rehabilitation Loans.

(b) For the purposes of this subpart, all references at 24 CFR part 203, subpart B, to section 203 of the Act shall be construed to refer to section 257 of the Act. Any references at 24 CFR part 203, subpart B, to the “Mutual Mortgage Insurance Fund” shall be deemed to be to the Home Ownership Preservation Entity Fund.

(c) If there is any conflict in the application of any requirement of 24 CFR

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part 203, subpart B, to this part, the provisions of this part shall control.

§ 257.203 Calculation of up-front and annual mortgage insurance premiums for H4H program mortgages.

(a) *Applicable premiums.* Any mortgage presented for endorsement under section 257 on or after October 1, 2008, and prior to September 30, 2011, shall be subject to the following requirements:

(1) *Up-front premium.* FHA shall establish and collect a single premium payment not more than 3 percent of the amount of the original insured principal obligation of the H4H program mortgage.

(2) *Annual premium.* In addition to the premium under paragraph (a)(1) of this section, FHA shall establish and collect an annual premium payment in an amount not more than 1.5 percent of the amount of the remaining insured principal balance of the H4H program mortgage.

(b) *Proceeds for payment of the up-front premium.* The up-front premium shall be paid with proceeds from the H4H program mortgage through a reduction of the amount of indebtedness that existed on the eligible mortgage prior to its being refinanced.

Subpart D—Servicing Responsibilities

§ 257.301 Cross-reference.

(a) All of the provisions of 24 CFR part 203, subpart C, covering mortgages insured under section 203 of the Act shall apply to mortgages insured under section 257 of the Act, *except as follows*: 203.664 Processing defaulted mortgages on property located on Indian land; 203.665 Processing defaulted mortgages on property located on Hawaiian home lands; 203.666 Processing defaulted mortgages on property in Allegany Reservation of Seneca Nation of Indians; and 203-670-203.681 Occupied Conveyance.

(b) For the purposes of this subpart, all references in 24 CFR part 203, subpart C, to section 203 of the Act shall be construed to refer to section 257 of the Act. Any references in 24 CFR part 203, subpart C, to the “Mutual Mortgage Insurance Fund” shall be deemed

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to be to the Home Ownership Preservation Entity Fund.

(c) If there is any conflict in the application of any requirement of 24 CFR part 203, subpart C, to this part, the provisions of this part shall control.

§ 257.303 Prohibition on subordinate liens during first 5 years.

(a) *Prohibition on subordinate liens during first 5 years.* Except for FHA loss mitigation actions (e.g., mortgage modifications and partial claims) or as provided in paragraph (b) of this section, a mortgagor shall not, during the first 5 years of the term of the mortgagor’s H4H program mortgage, incur any debt, take any action, or fail to take any action that would have the direct result of causing a lien to be placed on the property securing the H4H program mortgage if such lien would be subordinate to the H4H program mortgage.

(b) *Property preservation exception.* Paragraph (a) of this section shall not prevent a mortgagor on the H4H program mortgage from incurring new mortgage debt secured by a lien on the property securing the H4H program mortgage that is subordinate to the H4H program mortgage if:

(1) The proceeds of the new mortgage debt are necessary to ensure the maintenance of property standards, including health and safety standards;

(2) Repair or remediation of the condition would preserve or increase the property’s value;

(3) The cost of the proposed repair or remediation is reasonable for the geographic market area;

(4) The results of the repair or remediation are not primarily cosmetic;

(5) The repair or remediation does not represent routine maintenance; and

(6) The new mortgage debt is closed-end credit, as defined in § 226.2 of the Federal Reserve Board’s Regulation Z (12 CFR 226.2).

Subpart E—Enforcement Mortgagor False Information

§ 257.401 Notice of false information from mortgagor-procedure.

(a) If FHA finds that the mortgagor has made a false certification or provided false information via any means,

including but not limited to false documentation, FHA shall inform the mortgagor, in writing or any other acceptable format, of such fact.

(b) The notice shall be sent to the mortgagor's last known address by both certified and ordinary mail. The notice shall state with specificity the misrepresentation or false statement made by the mortgagor. The notice shall include a request for repayment of the Direct Financial Benefit that the mortgagor is deemed to have received, as determined by FHA, by the refinancing of the eligible mortgage and subordinate mortgages. This does not preclude HUD or the United States from bringing any other action that they may be authorized to bring.

(c) The mortgagor may request a hearing before a Hearing Officer. The hearing will be conducted in accordance with the provisions of 24 CFR part 26, subpart A, except as modified by this section. Requests for a hearing must be made within 45 days from the date of the false information notice.

§ 257.403 Prohibitions on interested parties in insured mortgage transaction.

(a) A mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company or employee thereof, and any person with an interest in a real estate transaction involving an appraisal conducted as part of the process for insuring a mortgage under section 257 of the Act shall not improperly influence or attempt to improperly influence through any means, including but not limited to coercion, extortion, collusion, compensation, instruction, inducement, intimidation, nonpayment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with the origination, processing, and closing of the mortgage for insurance.

(b) HUD may, pursuant to its authority under section 536(a) of the Act, bring an action to impose a civil money penalty for a violation of paragraph (a) of this section.

(c) The authority to bring a civil money penalty under this section shall not preclude HUD from bringing any

other action that HUD may be authorized to bring for a violation of paragraph (a) of this section.

§ 257.405 Mortgagees.

(a) HUD will monitor mortgagees to ensure compliance with the requirements of the H4H program. The Mortgagee Review Board at HUD is authorized to impose sanctions and civil money penalties against mortgagees who violates program requirements under this part. The authority of the Mortgagee Review Board to impose sanctions and civil penalties shall not preclude HUD from bringing any other action that HUD may be authorized to bring.

(b) Nonpayment of mortgage insurance claims for reasons established in § 257.16 shall not preclude the Mortgagee Review Board or HUD from bringing any action against the mortgagee that the Mortgagee Review Board or HUD are authorized to bring.

(c) The mortgagee may request a hearing before a Hearing Officer. The hearing will be conducted in accordance with the provisions of 24 CFR part 26, subpart A, except as modified by this section. Requests for a hearing must be made within 45 days from the date of the false information notice.

PART 266—HOUSING FINANCE AGENCY RISK-SHARING PROGRAM FOR INSURED AFFORDABLE MULTIFAMILY PROJECT LOANS

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